

REMARKS/ARGUMENTS

By this Amendment, claims 21 and 33 are amended. Claims 21, 24 - 30, 33, 35 - 38 and 40 are pending.

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

In paragraph 2 of the Office Action the examiner objected to claim 33 because it was dependent upon canceled claim 31. Claim 33 has been amended to make it dependent upon claim 21, and therefore this objection should be overcome.

In paragraph 4 of the Office Action the examiner rejected claims 21, 24 - 30, 33, 35 - 38 and 40 "under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement." Specifically, the examiner objected to the description of the removable bell being "plastic" in view of the fact that the Specification does not describe the removable transparent protective bell as being plastic.

Claim 21, the only independent claim in this application, has been amended to remove the reference to the removable bell being "plastic." Accordingly, applicants submit that the rejection predicated on 35 U.S.C. 112, first paragraph, has been overcome.

It should be noted that claims 21, 24 - 30, 33, 35 - 38 and 40 are presented for examination in this application.

As noted above, claim 21 is the only independent claim presented for consideration herein. Therefore, an acknowledgement that claim 21 is allowable should result in an allowance of all other remaining dependent claims.

Turning to the Office Action, in paragraph 4 the examiner rejected claims 21 and 33 "under 35 U.S.C. 103(a) as being unpatentable over Rode (US Patent No. 6,044,648) in view of Roslonski (US)Patent No. 3,595,030) and Walker et al. (Walker) (US Patent No. 5,976,871)."

As will be pointed out hereinafter, the above rejection simply is not sustainable because the combination of references fails to teach or render obvious the subject matter specified in independent claim 21, particularly as amended herein.

The examiner acknowledges that the Rode '648 patent, which is the primary reference cited against claim 21, fails to disclose a number of the claim features, including:

- a removable protective bell on the cooling space;
- a cold gas outlet located on a lower side of the bell communicating with the cooling space;
- a porous buffer material arranged in the intermediate space;
- the cooling agent supply line introducing the cooling agent into the porous buffer material;
- the cooling agent being transferred through the inner wall with the inner wall being permeable; and
- the ability of the cooling equipment to function without a cooling agent lake forming on a bottom of the cooling space.

It should be noted that claim 21 has been amended to more particularly point out certain patentably novel features that are not disclosed in the Rode '648 patent.

First, claim 21 has been amended to clearly specify that the removable protective bell, which is described as being at least partially transparent, has "an interior chamber." Moreover, claim 21 has been amended to clearly specify that the cold gas outlet, which is located on a lower side of the protective bell, communicates with the cooling space "through said interior chamber for permitting cooling agent and cold gas to exit the cooling space through the protective bell." In addition, claim 21 has been amended to more particularly specify that the cooling agent which is directed in liquid form into the porous buffer material of the intermediate space is transferred "from the buffer material" into the cooling space through the inner wall.

Turning back to the rejection, the examiner relies upon the Roslonski '030 patent as purportedly disclosing a number of the features that the examiner acknowledges are missing from the device disclosed in the Rode patent.

First, the examiner asserts that the removable cover 24 in the Roslonski structure corresponds to the protective bell specified in claim 21. This simply is not the case.

It should be clear that element 24 is a flat cover plate for inner chamber 20 and has absolutely none of the features of the removable protective bell specified in claim 21.

First, element 24 is simply a flat, solid plate and therefore does not include “an interior chamber” as specified in claim 21. Furthermore, there is absolutely no disclosure of the plate 24 including “glove sleeves through which an operator can manipulate samples present in the cooling space without gas exchange” as is now specified in claim 21. This is not surprising since there is absolutely no reason for including the claimed glove sleeves in the element 24.

In summary, it should be apparent that the closure plate 24 disclosed in the Roslonski '030 patent simply cannot be considered the equivalent of the protective bell specified in claim 21, particularly as this latter claim has been amended herein.

The examiner further argues that the conduits 48 disclosed in Fig. 2 of the Roslonski '030 patent correspond to the “cold gas outlet” specified in claim 21. This also is not the case.

Note that claim 21, particularly as amended herein, specifies that the cold gas outlet is “located on a lower side of the protective bell and [communicates] with the cooling space through said interior chamber [of the protective bell] for permitting cooling agent and cold gas to exit the cooling space and the protective bell.” Thus, it is clear that claim 25 specifies that the cold gas outlet actually is located on and communicates with the protective bell.

In distinction, the conduits 48 of the Roslonski '030 patent obviously are not part of the removable cover 24, which the examiner characterized as being equivalent of the protective bell.

The examiner further takes the position that the porous buffer material (34) disclosed in the Roslonski '030 patent meets the specified limitation of a "porous buffer material" specified in claim 21.

Claim 21 clearly specifies that the cooling agent is transferring "from the buffer material into the cooling space."

In distinction, in the Roslonski cooling apparatus a cooling agent is transferred from the cooling space 22 into the porous buffer material 34. Thus, the cooling agent in the Roslonski cooling apparatus is transferred between the porous buffer material and the cooling space in a direction opposed to the flow direction specified in claim 21. It appears that the examiner has not fully appreciated this fundamental difference between the presently claimed invention and the disclosure in the Roslonski '030 patent.

It should be apparent that the Roslonski '030 patent simply does not provide a disclosure of the features the examiner asserts to be disclosed in the Roslonski patent.

In view of the above remarks applicants submit that claim 21, particularly as amended herein, sets forth patentably novel subject matter and respectfully requests an indication to that effect.

All of the remaining claims presented for prosecution in this application are either directly or indirectly dependent upon claim 21 and therefore are submitted to be patentable for the same reasons discussed above in connection with claim 21.

The examiner rejected dependent claims 24, 29 and 30 on the same basis as independent claim 21, "and further in view of Binder (US Patent No. 5,601,143)."

The examiner rejected dependent claims 25 and 26 on the same basis as independent claim 21 and "further in view of Barthel (US Patent No. 4,481,779)."

The examiner rejected claims 27 and 28 on the same basis as independent claim 21 and "further in view of Palma (US Patent No. 3,618,336)."

Serial No. 10/598,436
Amendment dated January 29, 2010
Responsive to Final Office Action of December 17, 2009
Atty. Docket No. B1180/20057
Page 9

The examiner rejected claims 36 and 38 on the same basis as independent claim 21 “and further in view of Weng (US Patent No. 6,845,628).”

And finally, the examiner rejected dependent claim 37 on the same basis as claims 36 “and further in view of Ali (US Patent No. 5,546,756).”

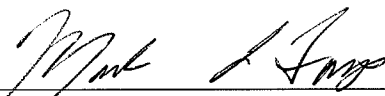
First, as noted above, since all of the dependent claims are either directly or indirectly dependent upon independent claim 21 they set forth patentably novel subject matter for at least the reasons discussed above in connection with claim 21.

In addition, it should be noted that the Palma '336 patent, which was relied upon in the rejection of dependent claims 27 and 28, is directed to an invention totally unrelated to the cooling equipment specified in the claims in this application. Specifically, the Palma '336 patent relates to a coffin construction.

In view of the above amendments and remarks, applicants submit that all of the claims presented for consideration herein set forth patentably novel subject matter and an indication to the effect is respectfully requested.

Please charge or credit our Account No. 03-0075 as necessary to affect entry and/or ensure consideration of this submission.

Respectfully submitted,
CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.

By: 
Martin L. Faigus
Registration No. 24364
Customer No. 03000
(215) 567-2010
Attorneys for Applicants

January 29, 2010
MLF:gbr